IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.1123 OF 2002

WITH

CRIMINAL APPLICATION NO.678 OF 2006

Farid @ Munna Mohammed
Hasan Shaikh : Appellant.

versus

The State of Maharashtra : Respondent.

Mr.D.G.Khamkar for the appellant.
Smt.V.R.Bhosale, APP, for the State.

CORAM : D.G.DESHPANDE
S.A.BOBDE, JJ.
DATED : AUGUST 07, 2006.

P.C.

1. Criminal Application No.678 of 2006 is for bail. However, on the last occasion the counsel for the appellant stated that he wants to

argue only on the point of sentence. Therefore, the matter was adjourned in order to enable the counsel for the appellant to get instruction. Today he submits that he is ready to argue the appeal on the point of sentence only, therefore, by consent, the appeal is taken up for final hearing.

2. Heard. Mr.Khamkar, appearing for the accused/appellant, submitted that even though this is a case of 307 of the Indian Penal Code, the accused has been convicted and sentenced for life. According to him, looking to the nature of injury, the sentence is disproportionate and very harsh. Only one injury was inflicted on the victim and that was of 8 cms in length, but in the original medical certificate the depth is not given. The victim was hospitalised for 11 days and, therefore, according to him, in no case such a harsh sentence would be imposed upon the appellant.

3. The learned APP for the State tried to contend that it was an attempt to murder and, therefore, the sentence awarded by the trial Court is proper.

4. We do not find that the sentence is proper with the severity of injury. Therefore, the submission of Mr.Khamkar for the accused is accepted. Mr.Khamkar appearing for the accused, on the basis of record, contended that the accused is in custody since 1st February 1996. Therefore, the accused/appellant is in custody for ten years and six months. Hence we pass the following order.

:ORDER:

Criminal Appeal No.1123 of 2002 is partly allowed.

Conviction of the accused under Section 307 of the Indian Penal r/w Section 452 is upheld. However, the sentence awarded to the accused/appellant under the aforesaid sections is reduced to six years. The accused/appellant will pay fine of Rs.10,000/-, in default of payment of fine, he will have to undergo simple imprisonment of 2 years.

The accused/appellant has already undergone the substantive sentence imposed by us as well as in default sentence. Therefore, the accused/appellant be released forthwith, if not required in any other case.

In view of this order, the criminal Application No.678 of 2006 for bail does not survive. It is disposed of accordingly.

[D.G.DESHPANDE,J]

[S.A.BOBDE, J]